THE HON'BLE MS. JUSTICE G. ROHINI

W.P.No. 18531 of 2002

The writ petitioner was declared as the highest bidder in the tenders invited vide tender notification dated 25-06-2002 for the work pertaining to drilling and grouting of "A" curtain holes and drilling of drainage holes in the drainage gallery of Somasila Project.

It is stated that the petitioner had quoted (-) 17.10% while the other eligible bidder quoted (-) 16.20%. However, by letter dated 12-9-2002 the 4th respondent informed the petitioner that the tenders covered by tender notice dated 25-06-2002 were cancelled, since the petitioner who was found to be the lowest bidder was not registered with specialization under the category of foundation treatment as class-I contractor. Accordingly the bank guarantees furnished by the petitioner were returned. Aggrieved by the said action writ petition is filed seeking a declaration that the action of the respondents in canceling the tenders as arbitrary and illegal and for a consequential direction to the respondents to accept the petitioner's tender submitted in response to Tender Notice No.7/2002-03, dated 25-06-2002.

This Court while ordering Rule Nisi by order dated 9-10-2002 directed the respondents not to proceed further in respect of entrustment of execution of the work in question. Consequently, though the respondents issued a fresh tender notification dated 30-09-2002, they could not proceed further.

I have heard the learned counsel for both the parties and perused the material on record.

Though the learned counsel for the petitioner raised various contentions, it is relevant to note that having regard to the fact that due to afflux of time and particularly in view of the change in the SSR charges, even if the writ petition is allowed the tenders on the basis of the tender notification dated 25-06-2002 cannot be finalized since the rates quoted at that time are not workable. Hence I am of the opinion that it is not necessary for this court to go into the merits of the case and express any opinion on the issue whether the respondents are justified in canceling the tender notice dated 25-06-2002.

Accordingly the writ petition is disposed of granting liberty to the respondent-

authorities to issue a fresh tender notification in respect of the work in question. It is made clear that it is open to the petitioner to participate in pursuance of fresh tender notification that may be published, in which event the same shall be considered in accordance with law.

The writ petition is accordingly disposed of. No costs.

20th December, 2005

BJ/